

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER M. MONGIELLO,

Plaintiff,

v.

INDYMAC BANK F.S.B.,

Defendant.

No. 24-CV-2290 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff Christopher M. Mongiello (“Plaintiff”), appearing pro se, brings this Action against Defendant IndyMac Bank (“Defendant” or “IndyMac”), pursuant to the Real Estate Settlement Practices Act (“RESPA”), 12 U.S.C. § 2601 et seq., and N.Y. Real. Prop. Acts. Law § 1501, in connection with real property located in New Rochelle, NY. By Order dated April 2, 2024, Chief Judge Swain granted Plaintiff’s request to proceed in forma pauperis (“IFP”), that is, without prepayment of fees. (*See* Dkt. No. 6.)

The Court has afforded Plaintiff multiple opportunities to provide the correct address for OneWest Bank, IndyMac’s successor. (*See* Dkt. Nos. 40, 44.) Plaintiff has instead asserted that the service address is either in Houston, Texas, (*see* Dkt. No. 41), or is that of the New York State Department of Financial Services’ Office of General Counsel, (*see* Dkt. No. 45).

The Court has warned Plaintiff that it is his responsibility to request an extension of time for service if the Complaint is not served within 90 days after the date summonses are issued. (*See* Order of Service (Dkt. No. 7) at 2 (citing *Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012)).) Here, summons was issued on April 18, 2024, (Dkt. No. 8), and Plaintiff has failed to request an extension of time for service. However, the Court will exercise its discretion and

excuse this instance of Plaintiff's failure to comply with the Court's orders. The Court has found what it believes is the correct service address for OneWest Bank, whose current successor-in-interest appears to be First Citizens BancShares.

Accordingly, the Clerk of Court is respectfully directed to mail an information package to Plaintiff. The Clerk of Court is further instructed to issue summonses for Defendant, complete the USM-285 form with the address for Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). Plaintiff consents to electronic service of court documents. (*See* Dkt. No. 4.)

SO ORDERED.

Dated: January 10, 2025
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', is written over a horizontal line.

KENNETH M. KARAS
United States District Judge

DEFENDANT AND SERVICE ADDRESS

First Citizens BancShares, as successor in interest to OneWest Bank & IndyMac Bank
4300 Six Forks Road
Raleigh, NC 27609